EXPLANATORY MEMORANDUM TO

THE PUBLIC SERVICE PENSIONS (EMPLOYER COST CAP) REGULATIONS 2014

2014 No. 575

1. This explanatory memorandum has been prepared by HM Treasury and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the Instrument

2.1 These Regulations will come into force on 1 April 2014, and make provision to enable public service pension schemes within the scope of the Public Service Pensions Act 2013 ("the Act") to operate the employer cost cap mechanism mandated by section 12 of the Act. The employer cost cap mechanism will help control the costs of these pension schemes by providing a baseline cost against which future changes in scheme costs can be measured. This will ensure that the schemes continue to be sustainable.

2.2 These Regulations set an upper and lower margin around the employer cost cap within which scheme costs can move before corrective action is required to address any imbalance in the costs. They also set a target cost (at the level of the employer cost cap) to which the scheme costs must be returned in the event that the upper or lower margin is breached.

3. Matters of special interest to the House of Commons Select Committee on Statutory Instruments.

3.1 None.

4. Legislative Context

4.1 Section 12(1) of the Act requires pension schemes to which section 12 applies to set an employer cost cap. Section 12(5) of the Act requires HM Treasury to make Regulations making provision that costs of a statutory pension scheme remain within specified margins on either side of the employer cost cap, and for a target cost within those margins to which scheme costs will return in the case that they breach those margins. These Regulations are made to fulfil the requirements of section 12(5).

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 Two Lords Commissioners of HM Treasury have made the following statement regarding human rights: "The Public Service Pensions (Employer Cost Cap) Regulations 2014 set out the upper and lower margin around the cost cap within which scheme costs can move without any need for corrective action, and a target cost for corrective action if those margins are breached. In our view, the provisions of this instrument are compatible with the Convention rights."

7. Policy background

7.1 Reforms to public service pensions are being carried out under the Act. An important part of these reforms is the employer cost cap mechanism in section 12 of that Act. Actuarial valuations of the pension schemes that are being reformed will be carried out, and their results used to set the level of the employer cost cap. Future actuarial valuations will compare scheme costs to the employer cost cap. This process will be carried out in accordance with Directions made by HM Treasury.

7.2 Section 12(1) and (2) of the Act require pension schemes to include an employer cost cap. This will be the expected future costs of the new schemes. Section 12(6) empowers pension schemes to create procedures for corrective action to be taken if the scheme costs move away from this level.

7.3 This instrument sets out the framework around the employer cost cap to inform the circumstances in which corrective action is required. First, it establishes margins around the employer cost cap within which scheme costs can move without triggering corrective action. This is to give schemes flexibility to cope with small fluctuations in cost. Second, it establishes a target cost to which costs will return as a result of corrective action, at the level of the cost cap itself. This will ensure that the schemes continue to be sustainable in the future.

8. Consultation outcome

8.1 Extensive consultation has been carried out by HM Treasury with Departments and member representatives, who have seen and had the opportunity to comment on this Instrument in draft form.

9. Guidance

9.1 No guidance has been produced to accompany this instrument, the contents of which are self-explanatory.

10. Impact

10.1 No Impact Assessment has been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

10.2 The outcome of this legislation is to enable public service pension schemes to control their costs to become affordable and sustainable in the long run, and to avoid additional costs falling to the Exchequer.

11. Regulating small business

11.1 This instrument does not apply to small business.

12. Monitoring and review

12.1 The operation of the employer cost cap in public service pension schemes is under regular review.

13. Contact

Sarah Deacon at HM Treasury Tel: 020 7270 4906 or e-mail sarah.deacon@hmtreasury.gsi.gov.uk can answer any queries regarding the instrument.